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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 3 April 2017 from the Permanent Mission of Germany to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Germany to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith Germany's report on the implementation of Security Council resolution 2321 (2016) in accordance with paragraph 36 contained therein (see annex).

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Annex to the note verbale dated 3 April 2017 from the Permanent Mission of Germany to the United Nations addressed to the Chair of the Committee

Report of Germany on the implementation of Security Council resolution 2321 (2016)

Germany and the other member States of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea imposed by the Security Council in its resolution 2321 (2016), by taking the following common measures:[1]

- Council Decision (CFSP) 2016/2217 of 8 December 2016 amending Decision (CFSP) 2016/849, which implements the designation of additional persons and entities (travel ban and asset freeze);
- Commission Implementing Regulation (EU) 2016/2215 of 8 December 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea;
- Council Decision (CFSP) 2017/345 of 27 February 2017 amending Decision (CFSP) 2016/849, which sets out the commitment of the European Union to implementing all the measures contained in resolution 2321 (2016) and provides the basis for accompanying measures specific to the European Union, but within the scope of the resolution, notably the following:
  - Trade ban applied on nuclear- and missile-usable items as listed in annex III to resolution 2321 (2016);
  - Trade ban on items included in the new conventional arms dual-use list adopted by the Sanctions Committee pursuant to paragraph 7 of resolution 2321 (2016);
  - Ban on the leasing or chartering of vessels or aircraft, or the provision of crew services, to the Democratic People's Republic of Korea;
  - Prohibition on registering vessels in the Democratic People's Republic of Korea, obtaining authorization for a vessel to use the flag of that country and on owning, leasing, operating, providing vessel classification, certification or associated services to, or insuring a vessel flagged by, the Democratic People's Republic of Korea;
  - Clarification that, specialized teaching and training that could contribute to the proliferation-sensitive nuclear activities of the Democratic People's Republic of Korea or the development of nuclear-weapon delivery systems may also include, but is not limited to, advanced materials science, advanced chemical engineering, advanced mechanical engineering, advanced electrical engineering and advanced industrial engineering;

[1] All common measures are published in the *Official Journal of the European Union*.

- Suspension of scientific and technical cooperation involving persons or groups that are officially sponsored by or represent the Democratic People's Republic of Korea, except in the case of medical exchanges; in the field of nuclear science and aerospace technology, exemptions may be granted by the Sanctions Committee when it has determined, on a case-by-case basis, that the activity will not contribute to illegal activities, while, for other fields of technical cooperation, the Member State may determine that the activity will not contribute to illegal activities, in which case it must notify the Sanctions Committee in advance;

- Attribution to the Sanctions Committee of the power to list vessels if it has information or reasonable grounds to believe that the vessels are involved in illegal activities. This power includes the additional measures that might be imposed by the Sanctions Committee in this regard;

- Restriction on the admission to the European Union of members of Government and officials of the Democratic People's Republic of Korea and members of that country's armed forces who are linked to illicit activities;

- Limitation on the number of bank accounts in the European Union to one per diplomatic mission and consular post of the Democratic People's Republic of Korea and one per accredited diplomat and consular officer of that country;

- Prohibition on the use by the Democratic People's Republic of Korea of real property that it owns or leases for any purpose other than diplomatic or consular activities and on the leasing from the Democratic People's Republic of Korea of real property situated outside its territory;

- Prohibition on providing insurance or reinsurance services to vessels owned, controlled or operated, including through illicit means, by the Democratic People's Republic of Korea;

- Prohibition on procuring vessels and aircraft crewing services from the Democratic People's Republic of Korea;

- Obligation to deregister any vessel that is owned, controlled or operated by the Democratic People's Republic of Korea, including a prohibition on registering any such vessel that has been deregistered by another United Nations Member State;

- Extension of export prohibitions: establishment of a new regime for the export ban on coal, including a cap on the exemptions relating to total exports to all United Nations Member States, with the power to determine the cap attributed to the Sanctions Committee and the export ban extended to new items, namely, statues, new helicopters and vessels, copper, nickel, silver and zinc;

- Financial sector: imposition of an obligation to close existing representative offices, subsidiaries or bank accounts in the Democratic People's Republic of Korea within 90 days, unless approved by the

Sanctions Committee on the grounds that the accounts are required for the delivery of humanitarian assistance or the activities of diplomatic missions;

- Prohibition on providing public and private financial support, including the granting of export credits, guarantees or insurance to nationals of the Democratic People's Republic of Korea involved in such a trade;
- Obligation to expel persons who are working on behalf or at the direction of a bank or financial institution of the Democratic People's Republic of Korea, unless the presence of the person is required for the fulfilment of a judicial process or exclusively for medical, safety or humanitarian purposes;
- Obligation to seize and dispose of (such as through destruction, rendering inoperable or unusable, storage or transfer to a State other than the originating or destination State for disposal) items the supply, sale, transfer or export of which is prohibited under Security Council resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) and 2321 (2016) and that are identified through inspections, in a manner that is not inconsistent with the obligations of Member States under applicable Security Council resolutions, including resolution 1540 (2004);
- Permissible derogation of the aforementioned prohibitions by means of exemptions granted by the Sanctions Committee, on a case-by-case basis, including when it has determined that an exemption may facilitate the work of international and non-governmental organizations;

• Council Regulation (EU) No. 2017/330 of 27 February 2017 amending Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures provided in Council Decision (CFSP) 2017/345.

Germany has also adopted the national legislation outlined below, which requires authorization for the sale, supply, transfer or export of arms and related materiel[2] to third countries and authorization for the provision of brokering services and other services related to military activities. Together with Council Decision (CFSP) 2016/849, this legislation provides the basis for enforcing the arms embargo against the Democratic People's Republic of Korea and the ban on related brokering services.

The sale, export and transit of arms and related materiel are prohibited under the Federal Foreign Trade and Payments Ordinance, specifically, section 74 (1) (5). Section 75 (1) (5) thereof prohibits trafficking and brokering transactions relating to arms and related materiel that are directly or indirectly destined for persons, organizations or institutions in the Democratic People's Republic of Korea. The import of banned goods from the Democratic People's Republic of Korea into Germany and the transport of banned goods aboard a vessel or aircraft entitled to fly the German flag are also prohibited under the Ordinance (sect. 77 (1) (1) (2)).

[2] This legislation applies to all goods included in the Common Military List of the European Union. See *Official Journal of the European Union C 129*, 21 April 2015.

The Council regulations mentioned above are binding in their entirety and directly applicable in all member States of the European Union. By Regulation (EC) No. 329/2007, member States are required to determine the penalties applicable to infringements of their provisions. The penalties determined by Germany for any infringement of the sectoral trade embargo and the arms embargo against the Democratic People's Republic of Korea, as well as the ban on related brokering services, are set out in the Federal Foreign Trade and Payments Ordinance, especially sections 80, 81 and 82, and in sections 17, 18 and 19 of the Federal Foreign Trade and Payments Act.

As regards restrictions on admissions (visa ban), the general legislation of Germany concerning aliens, along with Council Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea and repealing Decision 2013/183/CFSP, and Council Regulations (EC) No. 539/2001 and (EC) No. 810/2009, together provide the basis for refusing admission and denying requests for a visa. These regulations require nationals of the Democratic People's Republic of Korea to be in possession of a visa when entering the European Union. The travel restrictions are implemented through the visa application process.